

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6325

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOSE SINENCIO JORGE,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. James C. Turk, District Judge.
(CR-97-39, CA-00-213-7)

Submitted: August 14, 2001

Decided: September 20, 2001

Before WILKINS, MOTZ, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jose Sinencio Jorge, Appellant Pro Se. Jean Barrett Hudson, OFFICE
OF THE UNITED STATES ATTORNEY, Charlottesville, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Jose Sinencio Jorge seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001). Jorge's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1994), and the magistrate judge informed Jorge that he had ten days to file specific objections to the report and recommendation. Jorge was not, however, fairly informed that failure to file timely objections to the recommendation could waive appellate review of a district court order based upon the recommendation. Thus, we find that Jorge's failure to object does not bar appellate review. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985).

Because Jorge has not waived appellate review by failing to file objections, we have reviewed the record, the district court's order accepting the magistrate judge's recommendation, and Jorge's informal appellate brief. Jorge does not challenge on appeal the district court's rejection of his claim that counsel provided ineffective representation by failing to file a notice of appeal after being asked to do so. Jorge therefore has not preserved any issue for our review. 4th Cir. R. 34(b). Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Jorge, Nos. CR-97-39; CA-00-213-7 (W.D. Va. Dec. 11, 2000). We dispense with oral argument

because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED